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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/579,328	05/15/2006	Stephane Revol	290905US6X PCT	2136
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OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			EXAMINER MALEKZADEH, SEYED MASOUD	
			ART UNIT	PAPER NUMBER
			1791	
			NOTIFICATION DATE	DELIVERY MODE
			08/13/2008	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocket@oblon.com  
oblonpat@oblon.com  
jgardner@oblon.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/579,328	<b>Applicant(s)</b> REVOL, STEPHANE	
	<b>Examiner</b> SEYED M. MALEKZADEH	<b>Art Unit</b> 1791	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 15 May 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 16-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 16-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 May 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>08/07/2006</u> .  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 16-30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

With regard to claim 16, line 6, citation "at least one deflector placed above a specific location of the mold" renders the claim indefinite. The term "specific" is not defined by the claim and one of ordinary skill in the art would not be reasonably apprised of the scope of the claim.

With regard to claim 16, lines 8-9, citation "redirecting the locally intercepted powder towards a determined location in the mold" renders the claim indefinite. The term "determined" is not defined by the claim and one of ordinary skill in the art would not be reasonably apprised of the scope of the claim.

Claim 16 recites the limitation "the locally intercepted powder" in the eight line of the claim. There is insufficient antecedent basis for this limitation in the claim because prior to the cited limitation, the claim fails to clearly define "a locally intercepted powder" in the claim.

Claim 23 recite the limitation "the space between the lower and upper parts" in the fourth line of the claim. There is insufficient antecedent basis for this limitation in the claim because prior to the cited limitation, claims 23, 29, or 16 fail to clearly define "a space between the lower and upper parts"

With regard to claim 30, line 2, citation "a shape of the determined location of the mold to be filled" renders the claim indefinite. The term "determined" is not defined by the claim and one of ordinary skill in the art would not be reasonably apprised of the scope of the claim.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 16 – 18, 26, and 29-30 are rejected under 35 U.S.C. 102(b) as being anticipated by Zahrah et al. (US 6,402,500)

Zahrah et al (US '500) teach a delivery and filling system for filling a mould cavity (124) with a particulate material such as powder wherein the system comprises a mini-hopper (10) and collimator (126) as a means for adding at least one powder including a power inlet and a powder outlet in which the mini-hopper (10) has the same structural functionality as a

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receptacle, an individualized fluidizer (114) as an introducing pipe with an entrance orifice, a porous distributor plate (104) as a means for ejecting the powder added into the device, and a bowl section positioned above the mold cavity (124) as a deflector in which locally intercept and redirect part of the powder ejected from the ejector means towards the mould cavity (124). (See lines 11-67, column 15 and figures 4A - 4B)

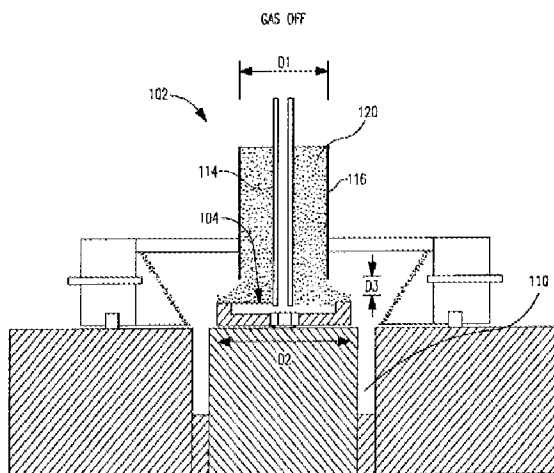


FIG. 4A

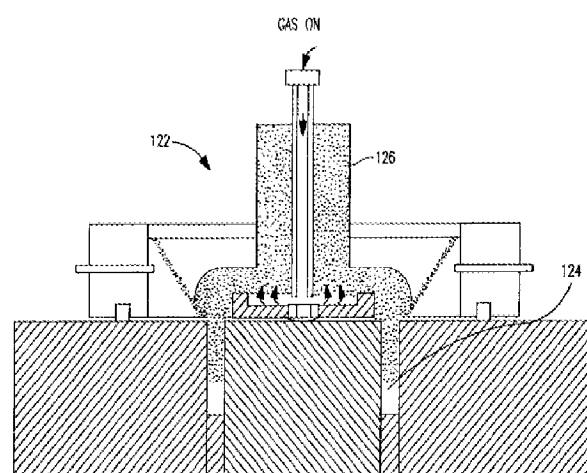


FIG. 4B

Zahrah et al (US '500) further teach the delivery chute (122) is centered above the die cavity (124) by pushing and moving the fill-shoe. (See lines 52-61, column 15) Therefore, the prior art teaches the deflector is mobile and orient-able.

Moreover, Zahrah et al (US '500) disclose the means (126) for adding powder includes a powder inlet and a powder outlet, and further the deflector is a part of an internal wall of the ejecting device.

The prior art, thus, meets all the claim limitations and therefore Zahrah et al (US '500) anticipate the claims 16-18, 26, and 29-30.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

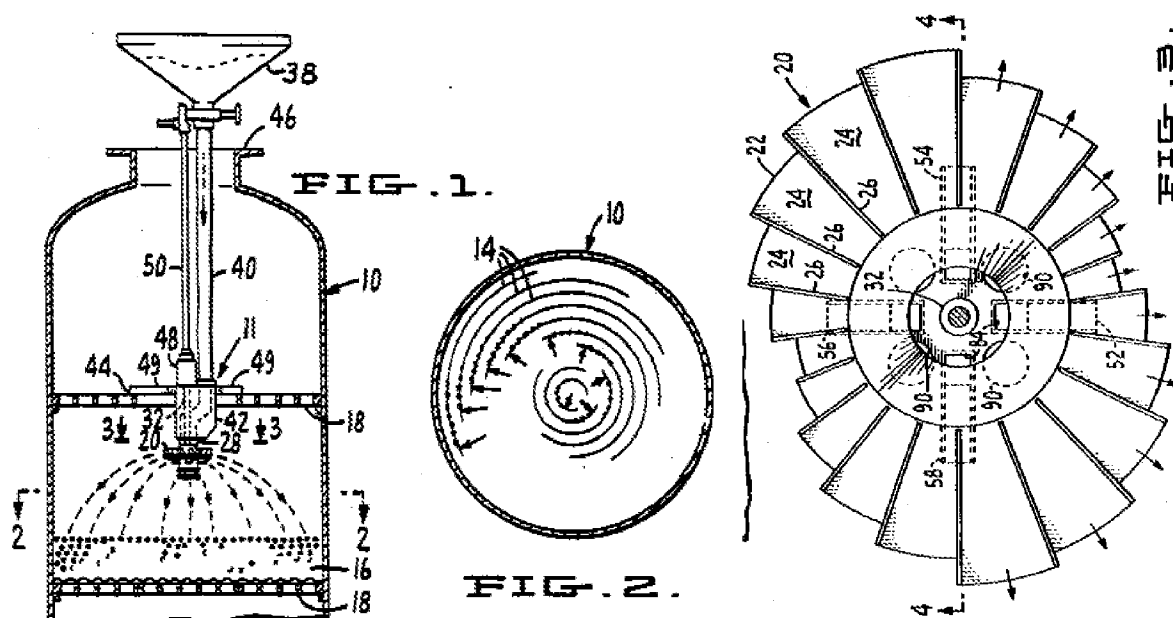
Claims 19 – 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zahrah et al. (US 6,402,500) in view of Souers et al. (US 5,296,202)

Zahrah et al. ('500) teach all the structural limitations of a device for filling at least one mold with the powder, as discussed above in rejection of claims 16-18, 26, and 29-30. Further, as recited above, Zahrah et al. ('500)

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also teach a mean for ejecting the powder includes a tray as a lower part, a collimator (126) as an upper part and an entrance orifice (114) and a powder outlet. However, Zahrah et al. ('500) fail to teach rotating the ejecting means for ejecting powder as a rotating device which is in a shape of a disk, a cone, or a bowl, and includes at least one rib, as claimed in claims 19-21.

In the analogous art, Souers et al. (US '202) teach an apparatus for simultaneously distributing particles across the full diameter of particles across the full diameter of the bed with a single rotor wherein the apparatus comprises a large diameter catalytic reactor vessel (10), a hopper (38), a supply tube (40), a catalyst loading apparatus (11), a lower feed hopper (42), a feed tube (28), and a catalyst distribution rotor member (20) as a disk-like rotating device in which the disk-like rotating device (20) comprises a plurality of sectors or segments (24) with rib members (26), a drive shaft (32) for the rotation of the rotor member (20), (See column 7 and lines 12-50, column 8; further, figures 1 and 3) wherein the particles are distributed by the single disk-like member across the full diameter of the bed with substantially uniformly high density through forming a multiplicity of annular rings of the powder concentric with the center of the vessel or bed. (See lines 62-68, column 4)



Therefore, it would have been obvious for one of ordinary skill in the art at the time of applicant's invention to modify the device for the powder filling of the mold as taught by Zahrah et al. ('500) through providing a disk-like rotating device with ribs as an ejection mean for the filling of the mold in order to uniformly distribute the powders within the mold cavity in such a way that the powders have a high density, as suggested by Souers et al. (US '202)

Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Zahrah et al. (US 6,402,500) in view of Souers et al. (US 5,296,202), as applied to claims 19-24, and further in view of Olson et al. (US 4,437,613)

Combined teachings of Zahrah et al. (US '500) and Souers et al. ('202) teach all the structural limitations of a device for filling at least one mold with the powder, as discussed above in rejection of claims 19-24. However, the prior



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art fails to teach the rotating device includes a curved tube, as claimed in claim 25.

In the analogous art, Olson et al. (US '613) teach a particle spreading apparatus as a powder spreading apparatus for dispersing particles in which the apparatus includes grain storage bin (18), a grain conveyor (37), a distributing apparatus (10) comprising a rotating shaft (17), a grain holding unit (12), a cylindrically shaped drum (19), and an output tube (26), wherein the particles holding unit may be selectively rotated about the mounting unit by appropriately controlling the motor in order to evenly distribute the particles throughout the particle storage bin. (See lines 60-68, column 2 and lines 1-20, column 3; figures 2-3)

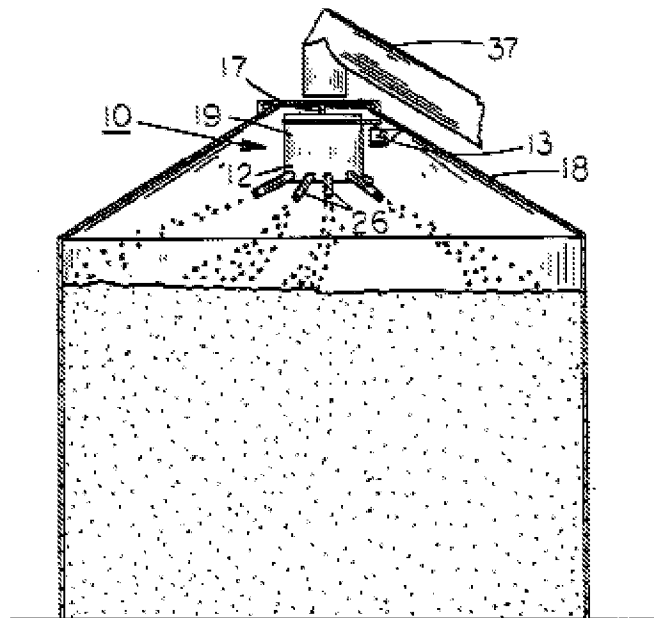


FIG. 2

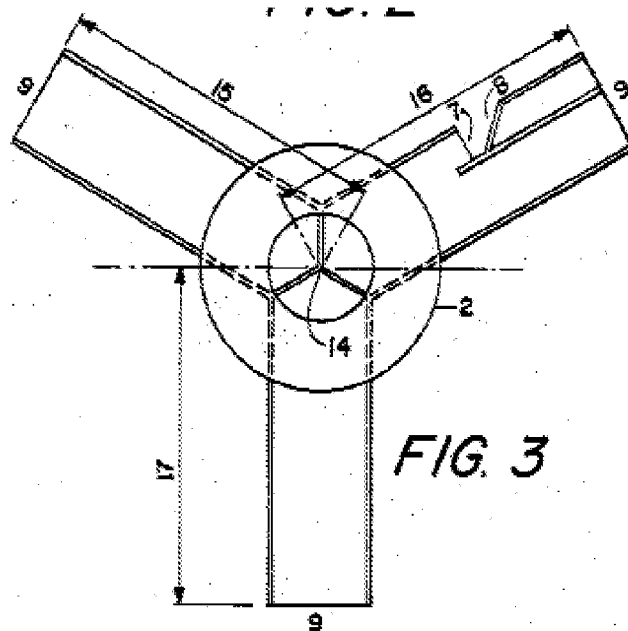
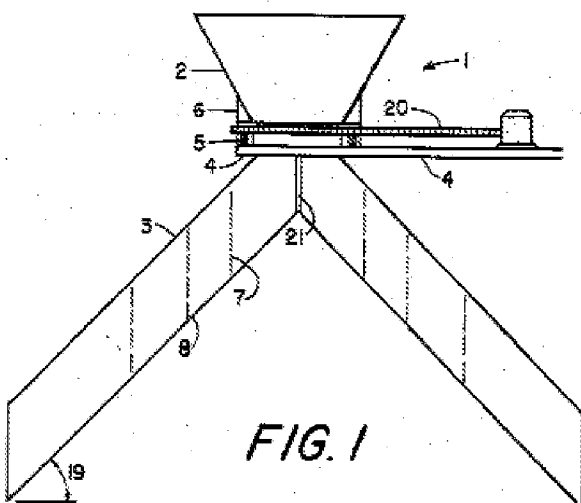
Therefore, it would have been obvious for one of ordinary skill in the art at the time of applicants' invention to modify the device for powder filling of the mold as taught by combined teachings of Zahrah et al. ('500) and Souers et al. ('202) through providing a curved tube for the rotating device of the ejection apparatus for distributing the powder within the mould cavity in order to effectively control the distribution of the powders through the mold cavity and also to fill the mould cavity with even layers of powder, as suggested Olson et al. (US '613)

Claims 27-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zahrah et al (US 6,402,500) in view of Bottoms (US 3,780,887)

Zahrah et al. ('500) teach all the structural limitations of a device for filling at least one mold with the powder, as discussed above in rejection of claims 16 – 18, 26, and 29-30. However, Zahrah et al. ('500) fails to teach at least one deflector is placed in parallel with a rotation axis so as to be perpendicular to a median ejection plane of the powder layer, as claimed in claims 27 and 28.

In the analogous art, Bottoms (US '887) teach a rotary distributor apparatus (1) with inclined conduits stream dividers and multiple discharge ports comprising a receiving mean (2), an optional dust shield (6), a conventional bearing (5), a fixed support (4), distributing conduits (3), drive means (20) which rotates the receiving mean (2), and dividers (7 and 21) as deflectors, wherein the powder material can be uniformly distributed in a

vessel by amount and by particle size radially from the axis of rotation at each level in the vessel, (See lines 15-22, column 1) and, further, the dividers (7 and 21) as deflectors divide a stream of particulate material passing downwardly through the conduit (See lines 39-47, column 1) in which the deflectors (7 and 21) are in parallel with the rotation axis of receiving means (2) and also the deflectors (7 and 21) are in perpendicular position relative to the plane in which the fixed support (4) is positioned. (See figures 1 and 3)



Therefore, it would have been obvious for one of ordinary skill in the art at the time of applicants' invention to modify the device for powder filling of the mold as taught by Zahrah et al. ('500) through positioning a plurality of deflectors in parallel with the rotation axis of the ejecting device in such a way that the deflectors are placed in a perpendicular direction to the median

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ejection plane in order to efficiently and effectively divide a stream of the powders passing downwardly to different parts and also to uniformly distribute the powders within the mould cavity, as suggested by Bottoms et al. (US 3,780,887)

With regard to the recitations in claim 23, "through which the powder enters and the powder being able to escape through the space between the lower and the upper parts" (See lines 3-4), and recitations in claim 24, "such that inertia of the powder leaving the outlet is sufficiently high that the powder is projected outside the rotating device" (See lines 2-4), also recitations in claim 26, "quickly moves the at least one receptacle and stops the at least one receptacle suddenly so that the powder contained in the at least one receptacle is sprayed outside the at least one receptacle by inertia" (See lines 3-5).

Intended use has been continuously held not to be germane to determining the patentability of the apparatus, *In re Finsterwalder*, 168 USPQ 530.

The manner or method in which a machine is to be utilized is not germane to the issue of patentability of the machine itself, *In re Casey*, 152 USPQ 235,238.

Purpose to which apparatus is to be put and expression relating apparatus to contents thereof during intended operation are not significant in determining patentability of an apparatus claim, *Ex parte Thibault*, 164 USPQ 666.

A recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations, *EX parte Masham*, 2 USPQ2d 1647.

See also *In re Yanush*, 177 USPQ 705 and *In re Casey*, 152 USPQ 235.

### **Conclusion**

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Seyed Masoud Malekzadeh whose telephone number is 571-272-6215. The examiner can normally be reached on Monday – Friday at 8:30 am – 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven P. Griffin, can be reached on (571) 272-1189. The fax number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published application may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see

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<http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/S. M. M./

Examiner, Art Unit 1791

/Eric Hug/

Primary Examiner, Art Unit 1791